

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

* * *

GARDEN CITY BOXING CLUB, Inc.,

Plaintiff,

vs.

JOSE IZARRARAZ, individually and as the
alter ego of EL CHAMIZAL RESTAURANT,
OFELIA IZARRARAZ, individually and as the
alter ego of EL CHAMIZAL RESTAURANT,
VICTOR ARANDA, individually and as the
alter ego of EL CHAMIZAL RESTAURANT,
EL CHAMIZAL RESTAURANT, DOES I
through V, and ROE CORPORATIONS I
through V, inclusive,

Defendants.

Case No.: 2:07-cv-01563-RLH-GWF

ORDER

(Order and Findings and
Recommendations—#54)
(Motion for Summary Judgment—#34)

Before the Court is an **Order and Findings and Recommendations** (#54), entered by the Honorable George Foley, Jr., United States Magistrate Judge, regarding Plaintiff's Emergency Motion for Terminating Sanctions, or in the Alternative, Motion to Compel Disclosures and Discovery Responses (#47), filed December 5, 2008. No objection was filed to Magistrate Judge Foley's Order and Findings and Recommendation in accordance with Local Rule IB 3-2 of the Rules of Practice of the United States District Court for the District of Nevada, and the matter was submitted for consideration. Also before the Court is Plaintiff's **Motion for**

1 **Summary Judgment Pursuant to FRCP 56 and/or Alternatively for an Order Declaring**
 2 **Certain Facts Established under FRCP 56(d)** (#34), filed September 15, 2008, Defendant
 3 Victor Aranda's Opposition (#39), filed October 1, 2008, and Plaintiff's Reply (#43), filed October
 4 15, 2008.

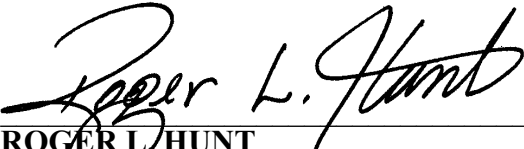
5 In its Order and Findings and Recommendations, the court granted Plaintiff's
 6 Emergency Motion and ordered Defendant Victor Aranda to pay Plaintiff the sum of \$1500 for
 7 Plaintiff's attorney fees and costs. In that Order, Magistrate Judge Foley also recommended that
 8 this Court grant Plaintiff's Emergency Motion and that Defendant Aranda's Answer to the
 9 Complaint (#14) be stricken and his default entered.

10 The court has conducted a *de novo* review of the record in this case in accordance
 11 with 28 U.S.C. § 636(b)(1)(B) and (C) and Local Rule IB 3-2 and determines that the Order and
 12 Findings and Recommendations of Judge Foley should be accepted and adopted.

13 IT IS THEREFORE ORDERED that Magistrate Judge Foley's Order and Findings
 14 and Recommendations (#54, entered December 5, 2008) is ACCEPTED and ADOPTED.
 15 Plaintiff's Emergency Motion for Terminating Sanctions, or in the Alternative, Motion to Compel
 16 Disclosures and Discovery Responses is GRANTED; Defendant Aranda's Answer to the
 17 Complaint is STRICKEN; and the Clerk of the Court is hereby directed to enter Aranda's
 18 DEFAULT, making Plaintiff's pending Motion for Summary Judgment moot.

19 IT IS FURTHER ORDERED that Plaintiff is permitted to pursue a motion for
 20 default judgment, with appropriate supporting affidavits, in accordance with Federal Rule of Civil
 21 Procedure 55.

22
 23 Dated: December 18, 2008.

24
 25 
 26 **ROGER L. HUNT**
 Chief United States District Judge